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February 17, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**BY HAND**

Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

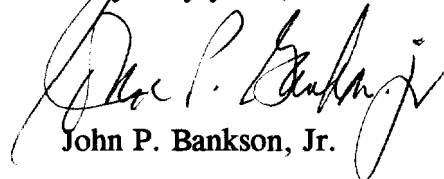
In re: WFUN and WREO-FM, Ashtabula, OH;  
Reply Comments to Notice of Proposed Rulemaking  
In MM Docket No. 97-234, et al.

Dear Ms. Salas:

On behalf of Radio Enterprises, licensee of the above stations, we are filing the original and five (5) copies of its Reply Comments to the Notice of Proposed Rulemaking.

Please stamp as received the additional copy and return it to our messenger.

Very truly yours,

  
John P. Bankson, Jr.

JPB/jb

Enclosure

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matters of	)	
	)	
Implementation of Section 309(j) of	)	MM Docket No. <u>97-234</u>
The Communications Act -- Competitive	)	
Bidding for Commercial Broadcast	)	
and Instructional Television Fixed	)	
Service Licenses	)	
	)	
Reexamination of the Policy Statement	)	GC Docket No. 92-52
on Comparative Broadcast Hearings	)	
	)	
Proposals to Reform the Commission's	)	GEN Docket No. 90-264
Comparative Hearing Process to Expedite	)	
the Resolution of Cases	)	

To the Commission

**REPLY COMMENTS OF RADIO ENTERPRISES OF OHIO, INC.**

Radio Enterprises of Ohio, Inc., by its attorneys, files its Reply Comments to the Notice of Proposed Rulemaking in the above-captioned matters, FCC 97-397, 62 F.R. 65392. Radio Enterprises is the licensee of WFUN and WREO-FM in Ashtabula, Ohio. These stations have been operated by succeeding generations of the Rowley family since 1937 and 1949 respectively, the years these stations began operation.

1. The owners of Radio Enterprises have extensive personal and institutional knowledge of the ways in which broadcast stations have been initially authorized, including comparative hearings (preceded by points-of-reliance), grants without hearings and settlements between and among mutually exclusive applicants with or without limitations on payments. The multiple subjects in this

consolidated rulemaking, part of which began in 1990, well illustrate the complexity of the futures of competitive bidding and the comparative hearing process, if any.

2. With all due respect to the Commission and to its dedicated and knowledgeable attorneys in the Mass Media Bureau and the General Counsel's Office, Radio Enterprises does not think that the Policy Statement on Comparative Broadcast Hearings<sup>1</sup> can be reformed to pass the scrutiny of the U.S. Court of Appeals for the D.C. Circuit and that Court's holding that a comparative criterion in use for so long is arbitrary and capricious<sup>2</sup>. Thus, there appears to be no way to reform the comparative hearing process at all, much less in order to expedite the resolution of broadcast cases. The owners of Radio Enterprises believe there is no hope for the comparative hearing process and that a swift burial is in order.

3. With regard to competitive bidding for commercial broadcast and ITFS licenses, the intent of the Congress in The Balanced Budget Act of 1997,<sup>3</sup> extending auction authority to broadcast licenses establishes that the Congressional policy is to maximize revenues from the auction of broadcast licenses. To that end, it abolished lotteries as a way of awarding many Commission licenses, broadcast and otherwise. Competitive bidding is the best

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1. 1 FCC 2d 393 (1965).

2. Bechtel v. FCC, 957 F.2d 873 (D.C. Cir. 1992) (Bechtel I); Ibid, 10 F.3d 875 (D.C. Cir. 1993) (Bechtel II).

3. P.L. 105-33, §§3002-3003, 111 Stat. 258-266.

way to maximize federal revenues in exchange for spectrum and to license those who most highly value the spectrum for which they bid.

4. While there are several ways to allocate broadcast licenses, Radio Enterprises believes that competitive bidding should be the only means for awarding broadcast licenses in the future and that it should be used in all mutually exclusive situations where not prohibited by statute.

Respectfully submitted,

RADIO ENTERPRISES OF OHIO, INC.

By:

  
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Its Attorney

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